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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/402,357	12/29/99	GERDIL	C 020755-016 <sup>13</sup>

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EXAMINER

SCHEINER, L

ART UNIT	PAPER NUMBER
1648	5

DATE MAILED: 03/28/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/402,357**

Applicant(s)

**Gerdil et al**

Examiner

**Laurie Schelner**

Group Art Unit

**1648**



☐ Responsive to communication(s) filed on \_\_\_\_\_

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1035 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 1-6 \_\_\_\_\_ is/are pending in the application

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-6 \_\_\_\_\_ is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☒ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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Claims 1-6 are pending in this application which is a 371 of PCT/FR98/00678.

The disclosure is objected to because of the following informalities: claim 3 should recite --according to claim 1 or 2-- rather than "according to one of the preceding claims" since claims may be renumbered. Similarly, claim 4 should recite --according to claim 1, 2 or 3-- rather than "according to one of the preceding claims". Appropriate correction is required.

Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-6 cannot be understood due to the recitation of "propagating the viruses of each type or species on cells which are permissive for the viruses but which do not induce any viral interference". That is, viral interference would prevent cells from being permissive. Thus, either a cell is permissive, or not permissive, for a specific virus or type of virus.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Ibanez-Bernal et al. (MEDLINE abstract/Medical and Veterinary Entomology, (1997 Oct) 11 (4) 305-9).

Ibanez-Bernal et al. teach that Vero cell cultured dengue virus serotypes 2 and 3 were identified by serotype-specific monoclonal antibodies and confirmed by RT-PCR.

Claim 5 is rejected under 35 U.S.C. 102(b) as being anticipated by Shaw et al. (MEDLINE abstract/GASTROENTEROLOGY, (1987 Nov) 93 (5) 941-50).

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Shaw et al. teach serotype-specific monoclonal antibodies directed at VP7 in a competitive solid-phase immunoassay to measure epitope specific immune responses to serotypes 1, 2 and 3 in sera of children who received a candidate serotype-3 rotavirus vaccine.

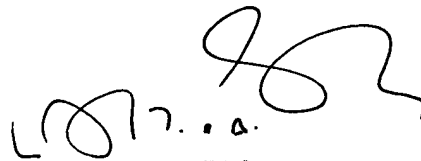
Claim 6 is rejected under 35 U.S.C. 102(b) as being anticipated by Osterhaus et al. (MEDLINE abstract/DEVELOPMENTS IN BIOLOGICAL STANDARDIZATION (1981) 50 221-8).

Osterhaus et al. teach Lymphocyte hybridomas secreting monoclonal antibodies against different strains of polio virus type 1, 2 and 3. Monoclonals may be used for routine vaccine control purposes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laurie Scheiner, whose telephone number is (703) 308-1122. Any inquiry of a general nature or relating to the status of this application should be directed to the Group 1600 receptionist whose telephone number is (703) 308-0196.

Correspondence related to this application may be submitted to Group 1600 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). Official communications should be directed toward one of the following Group 1600 fax numbers: (703) 308-4242 or (703) 305-3014. Informal communications may be submitted directly to the Examiner through the following fax number: (703) 308-4426. Applicants are encouraged to notify the Examiner prior to the submission of such documents to facilitate their expeditious processing and entry.

  
Laurie Scheiner/LAS  
March 24, 2001

  
L.S. . . .  
MAR 24 2001  
FAX 308-4426